

[Rollcall Vote No. 403 Leg.]

## YEAS—59

Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Ensign	McConnell
Bayh	Enzi	Miller
Bennett	Feinstein	Murkowski
Bond	Fitzgerald	Nelson (NE)
Brownback	Frist	Nickles
Bunning	Graham (SC)	Roberts
Burns	Grassley	Santorum
Campbell	Gregg	Sessions
Carper	Hagel	Smith
Chafee	Hatch	Snowe
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Jeffords	Sununu
Collins	Kohl	Talent
Cornyn	Kyl	Thomas
Craig	Lieberman	Voinovich
Crapo	Lincoln	Warner
DeWine	Lott	

## NAYS—39

Akaka	Dodd	Levin
Baucus	Dorgan	Mikulski
Biden	Durbin	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Graham (FL)	Pryor
Breaux	Harkin	Reed
Byrd	Hollings	Reid
Cantwell	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Landrieu	Shelby
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden

## NOT VOTING—2

Edwards	Kerry
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The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. FRIST. Mr. President, I am clearly disappointed we have been denied the opportunity to proceed to this very important legislation, a bill we very much want to discuss, to debate, and to appropriately amend. It is important to the American people. Thus, I believe we just witnessed a missed opportunity to address a critically and vitally important issue.

With that, for my colleagues, let me say we are making some progress on other issues in terms of how the afternoon will be spent. We are in discussion with regard to the antispam legislation, and I believe we will be able to proceed with that early this afternoon.

Again, let me state my disappointment. We are very committed to addressing this particular issue for the American people, and we will be trying, once again, to pull together and do what the American people deserve.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, the message in this vote is that now is the time for us to sit down and negotiate. I have said on several occasions, as late as this morning, that we are prepared to work with the majority. I will certainly work with the majority leader to bring to the floor a bill that will enjoy much broader support than 59 votes. We can do that. We recognize the need for reform, but we also recognize we have to do it right. I would like to start this afternoon. I will do it tomorrow. I will do it whenever the majority is prepared to do it, but we are pre-

pared to do it, and I look forward to further discussions on this issue in the days ahead.

After that, I hope we can move to other issues that divide us. I think there is an opportunity on asbestos as well, but it takes real negotiation. I am prepared to enter into those negotiations anytime the majority is prepared to do so as well.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, you just heard a willingness to work together. There were 59 Members who spoke just a few moments ago who said, Let's proceed and do it right now on the floor of the Senate. We were one vote short. I accept that. I think we do need to proceed directly to address this issue, and we will work in good faith to do just that.

As I mentioned earlier, I think we are very close on the antispam legislation that we talked about yesterday and today.

## MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that we go into morning business until 2, with the time equally divided. We should be ready to begin the spam legislation at 2.

Mr. DASCHLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DASCHLE. I ask the Chair whether the motion to reconsider has been propounded on the last vote.

The PRESIDING OFFICER. It has not.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. Who seeks recognition?

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## VOTE ON CLASS ACTION REFORM

Mr. DODD. Mr. President, I want to express my disappointment about the outcome of the last vote. I voted not to invoke cloture. I did so with great reluctance. A number of Members called me over the last several days about the class action reform bill that was before us. I appreciate very much the comments of both the majority leader and the minority leader, my good friend

from Delaware, TOM CARPER, HERB KOHL, and others who have worked very hard on this legislation. I have great respect for what they have tried to do.

I hope the majority leader will take up the offer of the Democratic leader and so we come together and work out what the provisions of this bill ought to be, at least the main provisions of it, and move forward. I am deeply committed to class action reform, but I do not want to move forward under a process where I am being told merely that I have a right to bring up amendments. I have that right anyway.

It seems to me if we are going to try to put a bill like this together, it takes meaningful cooperation, it takes sitting down. It is hard work. We have done it in the past. As the author of the securities litigation reform bill, the uniform standards legislation, terrorism insurance, the Y2K bill—all matters that brought together the trial bar and the business community trying to sort it out—I know that this can be done. It took a lot of work and a lot of hours to do it in the past. I strongly recommend on class action reform, that we make the same sort of effort.

It is not that difficult to get a good bill, but it does take work. Again, it takes meaningful cooperation. We need to have that if we are going to succeed.

I am terribly disappointed, but I must say to those who argued for cloture that there is a way of achieving the right results and the process we just went through this is not the way to go, in my view.

I can say, without invoking the names of my colleagues, there are a number of us who voted no on cloture who believe as strongly as I do about the need for reform and who would like to see a bill passed. So the majority leader and his staff, the staff of the Judiciary Committee and other interested parties—and there are not that many—if they can put something together, we can move forward. We could have another cloture vote, if we need to have one, although I doubt we will need one, with a more cooperative process there would be no need for one. I believe we can and should go forward.

The challenge is whether or not they want to do that. If they just want to have a 59-to-39 vote and move on to another issue, then that may indicate to some of us what the real intentions were here. If they are interested in getting this bill done, then there is a way to do it.

There are those of us who are willing to roll up our sleeves and get it done. In fact, many of the same people have been involved for months now in the asbestos legislation. I have an uneasy feeling we are heading in the same direction with that bill. It takes hard work. Members from both sides have to sit down, bring people together, and put in the hours it takes to finish the job.

If we allow this to sort of wander along without dealing with the intricacies and the complicated questions involved, then one can almost predict with certainty what is going to happen at the end of the day. So the offer is there. I make it to my friends and colleagues on this side of the aisle and the other. I am prepared to be a part of those efforts, if they find it fruitful and worthwhile, or to sit on the sidelines and watch it happen and be supportive of whatever they are able to produce.

Let's move forward and get this done. The American people deserve better. We are not working together as often as we should on critical questions. If we do not do it, then we do a great disservice to the American public.

So I hope the leaders would take up the offers that have been made, sit down and see if we cannot pull this bill together. For those who are interested, we ought to be prepared to start that process today—this afternoon—if people are so willing.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Louisiana.

**Ms. LANDRIEU.** Mr. President, I ask for 2 minutes of personal privilege to add a few remarks to the RECORD. I, too, remain firmly committed to class action reform and have stated so publicly many times and will continue to state publicly that intention.

There are two or three reasons I could not vote to move to debate on this bill because there were not clear indications given that certain language in this underlying bill would be removed.

I understand the legislative process. I am clear about the legislative process, but I am also clear about the way that arrangements can be made in this Chamber, arrangements with this White House and the House so that we can come out with a bill that is fair to the American public, that helps us to increase jobs, to remove the forum shopping, and to eliminate the abuses that are in this system, without undermining people's rights to get their day in court.

So as one of the votes that obviously could have made a difference in the outcome today, I most certainly remain open. The language, however, regarding mass torts must be removed. The coupon settlement language must be addressed. The jurisdictional question somewhere between the Feinstein and Breaux language would be acceptable, and the bounty provisions, which are very important to civil rights legislation, must be addressed.

These are four issues that I am going to be discussing, and if the side that is for reform is really interested in real reform and not just a political issue, these discussions can be had with this Senator.

**THE PRESIDING OFFICER.** The Senator from Kansas.

**Mr. BROWNBACK.** Mr. President, I will speak briefly about this issue as well. I think as we bring this up, it is

important, if we can, to move this forward and get it resolved. One of the things we need to be constantly focusing on is what can we do to grow jobs and create jobs.

We have been pressing forward. The Federal Reserve has been pressing forward, keeping interest rates low. We have been pressing forward in cutting taxes to try to stimulate. The early medicine seems to be working. We are starting to get some economic growth. We are starting to get some job creation taking place.

Another clear area of importance and need is this area of litigation reform. This is sapping a great deal of strength out of the economy and sapping strength from job creation. This is one of the areas we need to reform. I think there are ways that we can do this and still protect the rights of the individual, rights of those who are harmed in the system, but we are going to have to start to address this problem if we are going to be serious about job creation in the country and serious about what all we can do as a legislative body in creating an atmosphere and situation in the United States that can be the most growth oriented, and in a way that still protects all the rights of individuals in this country.

Those are the efforts that are taking place. That is what we are trying to do with this.

#### NOBEL PEACE PRIZE TO SHIRIN EBADI OF IRAN

**Mr. BROWNBACK.** Mr. President, I rise to draw the attention of my colleagues to a topic that is of significant importance in the world.

On October 10, the Nobel Peace Prize, the peace prize that was granted to the Dalai Lama in the past, to Martin Luther King, Jr., and to Nelson Mandela, was granted to Shirin Ebadi, not a household name. This lady is a prominent human rights activist in Iran. She was awarded the 2003 Nobel Peace Prize.

I want to draw the attention of my colleagues to her because Iran is one of those countries that is a state sponsor of terrorism. They are as a country on the very low end of recognition of human rights. The ruling clerics do not let participation in the society take place.

She has been fighting for the rights of students and activists to peacefully meet and speak out. She has done it from inside Iran. For that, she has paid for it in jail time and in harassment. She should now receive a reward from us in recognition.

Naturally, the regime in Tehran did not kindly meet upon her recognition as a Nobel Peace Prize winner. The regime actually went on to say there are other Nobel Prizes that are more important, like literature. I looked at that and I thought how would one deny their own countryman the peace prize, the highest of these? They are saying there is something else that is higher.

But it is because she has been going at this regime that is illegitimate and does not recognize the people.

I want to extend my heartfelt congratulations to Ms. Ebadi and to the Iranian people for their continued struggle for freedom, for democracy, and for human rights, against the clerics who have stripped them of every ounce of human dignity.

The Economist described Ms. Ebadi as this: Assertive, severe, and frighteningly well versed in Islamic and Western law, characteristics that challenge the status quo of Iran and the religious ruling clique.

Since being barred from serving as a judge, Ms. Ebadi has fought for the rights of homeless children under the repressive regime which treats the children like common criminals. In addition, she has spent the last 4 years investigating the attacks on student protestors by Iranian security forces during the massive July 9, 1999, protest. Ezzat Ebrahim-Nejad was one of those protesters killed during the 1999 protest. Ms. Ebadi represented his family in tracking down the thugs who attacked the students and their paymasters within the Ayatollah's regime. Her devotion to this case and many others landed her a 15-month jail sentence.

This year Ms. Ebadi established a nonprofit organization, a legal defense center for the families of Iranian dissidents and activists. This is challenging work that all Iranians can celebrate, and I am confident she will use the prestige that comes with the award of the Nobel Peace Prize to continue the struggle in Iran.

There are dissidents in Iran who I think deserve highlighting, who are being held without reason. Hassan Zarezadeh, a 25-year-old student, is one. He is being held because of participation in a July 9, 1999, protest. He has been in prison since July 6, 2003, in preparation of the anniversary recognition of that protest. There are reports he is enduring torture during his detention.

Dr. Farzad Hamidi disappeared on June 18, 2003, in Tehran, barely 1 year after being released from jail. His whereabouts is unknown, but friends and family believe his disappearance is connected to his role in the student protest.

Shirin Ebadi's struggles continue for these and many other individuals and activists inside Iran, and dissidents—and all they want to do is be able to peacefully meet and to be able to communicate their message to people within Iran. All they are getting for that is jail, harassment, and, unfortunately, death.

Systematic change is needed to take place. A number of people are calling for that inside Iran. The student protesters and others are calling for an internationally monitored referendum on the Government in Iran. That is, indeed, what should take place.

I wanted to draw Shirin Ebadi's name and her recognition and her award to